

THE LAW

ISTOCK



MARRIAGE SPLIT: *Differences of view over same-sex marriage bills*

SOCIAL POLICY

Divisions remain over marriage bills

MPs urged to consider committee's report.

Parliament still stands divided on two controversial bills which seek to legalise same-sex marriage in Australia. A report by the House of Representatives Social Policy and Legal Affairs Committee has prompted another round of passionate debate.

The Marriage Equality Amendment Bill and the Marriage Amendment Bill seek to legalise same-sex marriage in Australia and recognise same-sex marriages performed in foreign countries. Both bills uphold existing protections that ensure no obligation is placed on ministers of religion to perform any marriage, which would include same-sex marriages.

Tabling the report in parliament, committee chair Graham Perrett (Moreton, Qld), urged all MPs to read the committee's report before voting on the two marriage equality bills before the House.

"I appreciate that there are many differences of opinion among us, as there is across the country. However, we have the weighty responsibility of upholding the views of the constituents who elected us to this position," Mr Perrett said.

"We have a duty to lead, as well as to represent our constituents and to vote accordingly."

To assist parliament with the debate, the report outlined some amendments which emerged from the evidence

received by the inquiry. This includes rewording of the bills to define marriage as simply 'between two people' in order to achieve the intent of removing discrimination in the Marriage Act.

The inquiry also found that, for practical purposes, it may be desirable for the proponents of the two bills to discuss agreeing on the text of a single bill for the parliament to consider.

The committee chose not to recommend how MPs should vote on the bills, but committee members submitted additional remarks which reflect the diversity of views in the parliament and the community.

Some members of the committee argued that the overwhelming response to its public inquiry showed that the community is ready for change, stating that it is indefensible and unjust that two people who love each other are unable to marry each other because of their sexual orientation.

But other committee members disputed that Australian attitudes to marriage have changed, saying the limitation of marriage to people of the opposite sex was not to discriminate against people who wish to belong to same-sex relationships, but rather acknowledges the unique institution of marriage.

More debate on the bills is expected during parliament's Spring sittings. •

EMPLOYMENT

Wanted: life beyond work

Proposals aim for better balance.

The right to request flexible working arrangements would be extended to all long-term casual employees and those employed for over 12 months under proposed amendments to workplace legislation.

The Fair Work Amendment (Better Work/Life Balance) Bill 2012 seeks to expand the National Employment Standards to allow staff to request the number of hours they work, the scheduling of those hours and the location of the workplace.

Current legislation only allows similar requests to be made by people with caring responsibilities for children under school age, or dependants under 18 with disabilities.

However a review by the House Education and Employment Committee has cast doubt over whether the amendments will be adopted.

The majority report of the committee recommended that consideration of the amendments be delayed until after a current review of the Fair Work Act 2009 is completed.

Introducing the private member's bill into the House, Adam Bandt (Melbourne, Vic) said it will provide a better work/life balance for Australian families.

"Sixty per cent of women say that they feel consistently time pressured and nearly half of men also feel this way," Mr Bandt told the House.

"Almost half of all fathers in couple households work more than they would prefer, and one-third of women working full time would also prefer to work less, even taking into account the impact that this might have on their income."

Mr Bandt said the bill would help families to better spread working responsibilities.

Professor Anna Charlesworth of the Centre for Work + Life welcomed

the bill, saying the amendments will provide people greater control over their time and the right to adjust their work schedule to fit changes in personal circumstances, lifestyles and family arrangements.

However the Australian Industry Group said the amendments will put undue pressure on employers that are already trying to do the right thing by their staff.

“Business conditions are very tough under the two speed economy and the high dollar is impacting substantially on many of our members,” Australian Industry Group CEO John O’Callaghan told a committee inquiry into the bill.

“Most employers try hard to accommodate reasonable requests for flexible working arrangements as it currently exists under the Fair Work Act.” •

THINKSTOCK



HOMEWORK: Many workers want to spend less time in the office

LEGAL AFFAIRS

Judging the judges

Support for judicial complaints mechanism.

A new framework for dealing with complaints against federal court justices is a step closer after a report by the House of Representatives Social Policy and Legal Affairs Committee recommended the proposed legislation be passed by the House.

The Judicial Complaints Bill sets up an internal mechanism for lower level complaints about judicial conduct to be handled by the Chief Justices of the Federal and Family Courts and the Chief Federal Magistrate.

The Parliamentary Commissions Bill is focused on serious complaints against sitting Commonwealth judicial officers, including a Justice of the High Court of Australia. The bill enables the establishment of parliamentary commissions, following a resolution by each house of the parliament, to investigate specified allegations of misbehaviour or incapacity, which in rare circumstances could lead to the dismissal of a federal court justice.

First assistant secretary at the Attorney-General’s Department Louise Glanville said together the bills will provide parliament and the judiciary with standard mechanisms for investigating complaints and allegations of misconduct or incapacity.

“The bills will give the public increased confidence that complaints about judicial officers will be handled appropriately and in this way the bills will promote an independent, robust and accountable judiciary,” Ms Glanville said.

But opposition members of the committee have raised concerns the bills could lead to a flood of complaints and impact on the independence of the judiciary.

Committee deputy chair Judi Moylan (Pearce, WA) questioned whether the Parliamentary Commissions Bill could undermine the independence of the judiciary by formalising a system allowing

politicians to dismiss judges from the federal courts.

“I think we have to be very, very careful that there is not political interference in the work of our judiciary,” Mrs Moylan said. “I think that is my overriding concern and, reading through the submissions, that clearly comes out as a concern of many.”

Former Attorney-General Philip Ruddock (Berowra, NSW), who joined the committee for its examination of the two bills, also cast doubts on the changes, predicting a steep rise in vexatious claims.

“What I am worried about is something that all of the data and statistics that you have will probably not reflect, the propensity for litigants in the family law area in particular to be so fixated about outcomes they will pursue every avenue, even to the point in the end of not accepting the function and the role of the judiciary.

“And I suspect providing a mechanism is likely to generate an enormous number of complaints in comparison to what you have seen in other jurisdictions.”

However Law Council of Australia treasurer Michael Colbran QC said the council supports the two bills, with the new system having the potential to increase transparency and public confidence in the judiciary.

“Our perception and our present position is that we do not fear a floodgate of new problems arising through that mechanism,” Mr Colbran said. “But what we do see is that there may be additional complaints that are identified by the fact that you have an established mechanism.

“So at the moment we may have a situation where there is, shall I say, unsatisfied demand to bring forward a complaint which in itself has a tendency to undermine confidence in the operation of the judicial system.” •